



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 243 OF 2011
WITH
CIVIL APPLICATION NO.2262 OF 2011
IN FA/243/2011

United India Insurance Co. Ltd.
Osmanabad, Through its Divisional
Manager, Aurangabad Divisional Office-I,
Osmanpura, Aurangabad.

... Appellant
(Orig. Opp. No.2)

Versus

1. Mr. Aba Balu Jadhav,
Age : 27 years, Occu. : Labour,
R/o. Dhorala, Tq. Bashi, Dist. Solapur,
Now working at Shree Dhaba,
Osmanabad Tuljapur Road,
At Tuljapur, Dist. Osmanabad.
2. Sou. Anita Aba Jadhav,
Age : 20 years, Occu. : & Residence
as of respondent no.1 above.
3. Subhash Ramchandra Pawar,
Age : Major, Occu. : Business,
(Owner of Tractor No. MH-25/H-398,
R/o. Jalkot, Tq. Tuljapur,
Dist. Osmanabad.

... Respondents

.....

Mr. Atul B. Gatne, Advocate for Appellant.
Mr. M. B. Kolpe h/f. Mr. V. B. Deshmukh, Advocate or Respondent
Nos.1 and 2.
Mr. S. N. Patne, Advocate for Respondent No.3.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 25 MARCH 2026

PRONOUNCED ON : 06 APRIL 2026

**JUDGMENT :**

1. In this appeal by Insurance Company/Original Opponent No.2, there is challenge to the judgment and award passed by Motor Accident Claims Tribunal, Osmanabad dated 29.10.2010 passed in M.A.C.P. No. 238 of 2009, by which death claim set up by original claimants/present respondent Nos.1 and 2, was allowed.

2. Learned counsel for appellant pointed out that, M.A.C.P. No. 238 of 2009 came to be instituted by parents of one Sonali, who allegedly met with a road traffic accident on 11.06.2009 i.e. on account of dash given by tractor bearing MH-25-H-1398. That, in above claim, present appellant were arraigned as opponent no.2 and the claim was contested by filing written statement / say at Exh.20 and fundamental ground was that the tractor in question was covered under Farmers' Packaged Insurance Scheme meant for only agriculture purpose, but the tractor was put to use for transporting sand that too for commercial purpose, and therefore, there was breach of policy condition. However, learned Tribunal directed both owner and insurer to jointly and severally pay the compensation.

3. Learned counsel took this Court through the judgment of learned Tribunal and pointed out to the stand taken by appellant, which is reflected in paragraph nos. 11 and 12 of the Award. For



above reasons, he urges to allow the appeal by setting aside the impugned award, more particularly directions to the Insurance Company to also jointly and severally pay the compensation.

4. Learned counsel for respondents would justify the Judgment and Award and prays to dismiss the appeal for want of merits.

5. The principal grounds raised in appeal by Insurance Company are, firstly, that the owner/driver of the tractor had committed a breach of insurance policy that is by not using the tractor for agricultural purposes or activities, but for transporting sand, for which there was no coverage; and secondly, that there was no effective driving licence. Grounds to this extent are apparently raised in the appeal memo vide ground no.(II) and (III), which are as under :

“(II). It ought to be held that, when it is admitted position that the driver of the Tractor was not holding any driving licence to drive Tractor, the Owner and driver of the Tractor has committed breach of condition of Insurance policy, to not to allow the insured vehicle by an unlicensed driver; the MACT ought to have exonerated the Appellant Insurance Co. Therefore, impugned Judgment and order/Award is liable to be quashed and set aside.



(III). It ought to be held that, Tractor involved in the accident, was insured with the Appellant under Farmers Package Insurance Policy and is supposed to be used only for own agricultural purpose of the Ori. Opponent No.1 i.e. present Respondent No. 3. But at the time of accident, the Tractor and Trolley was used for commercial purpose i.e. for transport Sand. Hence, the Insured-owner of the Tractor has committed breach of terms and conditions of policy, hence, this Appellant can be held liable to pay compensation to the claimant. Hence, impugned Judgment and order/Award is liable to be quashed and set aside.”

6. On going through the impugned judgment, it is noticed that, in paragraph no. 11, there is discussion regarding the plea raised regarding breach of terms and condition of policy. Learned Tribunal has also discussed evidence of DW1 Vasant Bhise, who was an official from R.T.O. office and he deposed that, as per his office record, licence issued to Raju Motiram Rathod is of LMV/Transport vehicle. Even at the time of renewal, his office issued licence of LMV/Transport. He further deposed that for driving a tractor there is a different type of licence.

7. Consequently, the learned Tribunal seems to have



observed in paragraph 12 that taking into consideration the judgment of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. v. Swaransingh and Ors.*** reported in 2004 (1) Mah. L.R. 541 (Supreme Court), Court is of the view that the driver of the tractor was holding valid and effective LMV/Transport licence on the day of accident, and as such, there was no breach of condition of policy. Even, recently, also Hon'ble Apex Court in the case of ***Mukund Dewangan v. Oriental Insurance Co. Ltd.***, (2017) 14 SCC 663, has held that, a person holding a licence of LMV is qualified to drive a vehicle like tractor. Consequently, there is no breach of the terms and conditions of policy on the point of invalid licence.

8. As regards to second contention that, the tractor was used for a purpose other than agriculture, resulting in a breach of policy, it is noticed that there is no distinct oral or documentary evidence from the either side, there are merely contentions and pleadings to that extent, but there is no supportive documentary evidence. Unfortunately, entire police papers are not part of Record and Proceedings. Consequently, regarding the contention of tractor being used for other than agricultural purpose, there is no foundational documents, and therefore, such contention also cannot be entertained. Even if learned Tribunal has merely referred to the pleadings, but has not recorded distinct findings. This Court is thus of



the considered view that, on account of non availability of material that the tractor was used for commercial purposes or other than agriculture purpose, above grounds raised herein do not sustain.

9. Resultantly, there is no good ground to interfere, and as such, First Appeal is dismissed.

10. Civil Application No. 2262 of 2011 is disposed of.

11. In view of dismissal of Appeal, respondents/original claimants are permitted to withdraw remaining amount lying in the Court.

(ABHAY S. WAGHWASE, J.)